Severance Tax Credit Procedures

A state severance tax statute (CRS 39-29-107.5) provides for a credit against severance tax liability for contributions to public facilities made by severance taxpayers with new or expanded production.

The severance tax credit has four purposes:

- To provide risk sharing in the "front-end finance" of local government facilities required to support significant impacts from expansion of mineral production.

- To build a partnership between the mineral producers and local governments for the development of adequate public facilities to accommodate the socio-economic effects of the mineral industry.

- To provide the state a means to review such credits to assure that the use of funds is appropriate to the intentions of the statute.

- To return to the Severance Tax Trust Fund those monies "borrowed" in the exercise of approved severance tax credits.

A severance tax credit goes through a 12 step sequence of events:

1) Development of a draft agreement between taxpayer and local government.
2) Review and discussions of the draft with Department of Local Affairs (DoLA).
3) Submission of the signed agreement to DoLA, starting the 90 day timer.
4) Review by DoLA staff and publication of a Pro/Con sheet.
5) Formal review by the Energy Impact Assistance Advisory Committee with the following statutory contribution qualification criteria:
   (a) Made prior to new or expanded severance.
   (b) Explicit and verifiable description of the contribution.
   (c) Amount agreed to and verifiable as valuation in current dollars.
   (d) Amount less than 50% of first ten years of severance tax anticipated by the taxpayer from new or expanded production, net of any prior approved contributions.
   (e) Need for the contribution “deemed necessitated by new or increased” production.
   (f) Purpose of the contribution “to assist in solving the impact problems”.
6) Approval/Disapproval decision by DoLA Executive Director.
7) If approved, transmittal of the agreement and approval letter to Department of Revenue.
8) Submission to the Department of Revenue of a credit claim by a taxpayer.
9) Review by the Dept. Revenue of the taxpayer, and the severance tax liability for qualification to exercise the claim.
10) Acceptance or denial of the claim by the Department of Revenue.
11) Accounting of the net outstanding claim and inflations amounts by the Dept Revenue.
12) Following full use of the credit, transfer by the Department of Revenue of 100% of subsequent taxpayer severance tax payments by the taxpayer to the Severance Tax Trust Fund to backfill revenue lost in the exercise of the credits.